

**Application Guide for
Private Columbarium Licence and Other
Specified Instruments**

**Private Columbaria Licensing Board
(English Translation of
Chinese Edition)**

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The Private Columbaria Licensing Board will, from time to time and having regard to the actual circumstances, make amendments to the Application Guide. The most updated version will be promulgated on the website www.rpc.gov.hk.

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Note: “PCO” is the abbreviation of the “Private Columbaria Ordinance”.

Chapter 1: Introduction

- (1) The Private Columbaria Ordinance (PCO), which was published in the Gazette and enacted on 30 June 2017, regulates private columbaria operating in Hong Kong.
- (2) Under the licensing regime of the PCO, there are three types of specified instruments, which include:
 - licence;
 - exemption; and
 - temporary suspension of liability (TSOL).

(section 2 of the PCO)

- (3) Any person who operates, keeps, manages or in any other way has control of a private columbarium in Hong Kong must obtain a specified instrument through application to the Private Columbaria Licensing Board (PCLB), unless the premises fall within the categories of premises in **Annex 1**.

(sections 4, 5, 6, 7, 9 and 10 and section 2 of the Schedule 3 to the PCO)

- (4) Any private columbarium which sells or newly let out niches must obtain a licence.

(section 10 of the PCO)

- (5) There are grandfathering arrangements for pre-cut-off columbaria, i.e. private columbaria which were in operation, in which ashes were interred in niches, immediately before 8 a.m. on 18 June 2014 (the cut-off time).

(6) Apart from a licence, a pre-cut-off columbarium may apply for exemption if the following circumstances are applicable to it:

- it will not sell or newly let out niches in the future;
- it was in operation (with at least one set of ashes interred in any niche or an interment right for any niche sold) before 1 January 1990 (i.e. a dated columbarium); and
- it has not sold or newly let out any niches since 8 a.m. on 18 June 2014.

(sections 2 and 20 of the PCO)

(7) A pre-cut-off columbarium may also apply for a TSOL at the same time when it applies for a licence or an exemption or both a licence and an exemption. As long as an application for TSOL has been submitted on or before 29 March 2018, together with an application for licence and / or exemption, the grace period which is applicable to the columbarium will be automatically extended until the application for TSOL is finally disposed of or withdrawn.

(section 21 and Schedule 7 of the PCO)

(8) This application guide serves to facilitate applicants in understanding the requirements for applying for specified instruments and related issues. It is not part of the PCO. It also does not provide legal advice on how an application should be made and should not be considered as such. Applicants should refer to the PCO for the detailed requirements and should seek legal and other professional advice whenever they consider it necessary.

IMPORTANT NOTICE

Section 99 of the Private Columbaria Ordinance –

Offence of providing false or misleading information

- (1) A person commits an offence if the person –
 - (a) provides information that is false or misleading in a material particular in, or in connection with, an application the person makes under this Ordinance in respect of a columbarium; or
 - (b) furnishes the Director, an authorized officer or a public officer with information under this Ordinance knowing that it is false or misleading in a material particular.
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine of \$500,000 and to imprisonment for 2 years.

Chapter 2: Types of specified instrument

The business activities permitted to be conducted under each type of specified instrument are as follows:

Type of specified instrument	Permitted activities
Licence	<ul style="list-style-type: none"> • Selling or letting out niches; and • General operation (including interment of ashes)
Exemption	<ul style="list-style-type: none"> • General operation, but selling and new letting out of niches are prohibited • Ashes interred in a niche before the cut-off time can continue to be kept in that niche. • The columbarium must ensure that the number of sets of ashes kept is limited to the total number of sets of ashes that were kept as at the cut-off time with the exception of the following: <ol style="list-style-type: none"> (1) For ashes interred in the columbarium between the cut-off time and the enactment date, the PCLB may permit the ashes to continue to be kept in the columbarium provided that one of the following criteria is met: <ol style="list-style-type: none"> (a) the interment right of the niche concerned was purchased or rented before the cut-off time and the name of the dedicated person has been entered into the endorsed register; or (b) the ashes were interred in a religious ash pagoda^{Note (1) and (2)} (as defined by section 57(14) of the PCO), and no fees, charges or other sums were paid, or are payable, for the interment of the ashes.

	<p>(2) If the interment right in respect of any niche purchased or rented before the cut-off time has not been exercised or has only been partially exercised, ashes may be interred in that niche during the validity period of the exemption (the name of the dedicated person must be entered into the relevant register).</p> <p>(3) For a religious ash pagoda in a columbarium of a Chinese temple specified by the Secretary for Home Affairs (SHA) by notice published in the Gazette, the ashes of the religious practitioners^{Note (2)} may be interred in the religious ash pagoda according to the conditions set out by the SHA (including the number of sets of ashes that may be interred).</p>
<p>TSOL</p>	<ul style="list-style-type: none"> • General operation, but selling and new letting out of niches are prohibited • Unless otherwise specified, the columbarium must ensure that the number of sets of ashes kept is limited to the total number of sets of ashes kept at the following times: <ol style="list-style-type: none"> (1) if the columbarium also applies for a licence (but does not apply for an exemption) --- limited to that as at the beginning of the enactment date; or (2) if the columbarium also applies for an exemption --- limited to that as at the cut-off time: <ol style="list-style-type: none"> (a) Ashes interred in a niche before the cut-off time can continue to be kept in that niche. (b) For ashes interred in a niche between the cut-off time and the enactment date, the PCLB may permit the ashes to continue to be kept in that niche provided that one of the following criteria is met: <ol style="list-style-type: none"> (i) the interment right of the niche concerned was

	<p>purchased or rented before the cut-off time; or</p> <p>(ii) the ashes were interred in a religious ash pagoda (as defined by section 57(14) of the PCO), and no fees, charges or other sums were paid, or are payable, for the interment of the ashes.</p>
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Note:

- (1) ***religious ash pagoda***, in relation to a pre-cut-off columbarium that is a columbarium of a Chinese temple, means any part of that columbarium that is used for the interment of the ashes of the religious practitioners of that temple.
- (2) ***religious practitioners***, refer to the Buddhist monks and nuns and Taoist priests and priestesses residing and serving in that temple immediately before death, but excludes their family members and any other persons related to that temple, whether as followers, donors or otherwise of that temple.

(sections 10, 20, 21, 54, 55 and 57 of the PCO)

For application for the same type of specified instrument by the same columbarium, the PCLB will generally only accept one application, unless the applicant can prove to the satisfaction of the PCLB that there are special circumstances making it essential for the applicant to submit more than one application for the same type of specified instrument.

If the applicant wishes to apply for licence and exemption for different parts of the same columbarium, the PCLB will generally accept, for the same columbarium, only a licence application for one part of the columbarium and only one exemption application for the other part, unless the applicant can prove to the satisfaction of the PCLB that there are special circumstances making it essential for the applicant to submit more than one application for a certain type of specified instrument. The “part” mentioned above means a complete structure which can be clearly segregated and distinguished from other structures, e.g. a building or a floor.

All the applications for specified instruments in respect of the same columbarium must be submitted by the same applicant.

Chapter 3: Application requirements

It is the responsibility of the operators of columbaria to ensure that the columbaria satisfy all the statutory and Government requirements (irrespective of whether these requirements are mentioned in the application requirements for specified instruments below).

(A) Licence

For an application for a licence, the applicant must prove that the columbarium complies with all of the following requirements:

Item	Requirement	Detail	Reference in PCO
1	Land-related requirements	<p>(a) The operation of the columbarium does not involve unlawful occupation of unleased land; and</p> <p>(b) The requirements in respect of the columbarium under the lease, under which the columbarium premises are held directly from the Government, are complied with.</p> <p>Please refer to <u>Chapter 15</u> and <u>Annex 7</u> for details.</p>	section 18(1) and sections 1 to 3 of Schedule 2
2	Planning-related requirements	<p>The columbarium complies with the Town Planning Ordinance (Cap. 131).</p> <p>Please refer to <u>Chapter 15</u> and <u>Annex 8</u> for details.</p>	
3	Building-related requirements	<p>(a) The columbarium complies with the requirements for approval and consent to the commencement of building works under section 14 of the Buildings Ordinance (Cap. 123) and every other requirement specified by the PCLB including requirements relating to design,</p>	

Item	Requirement	Detail	Reference in PCO
		<p>construction, structure, fire precautions, health, sanitation or safety; or</p> <p>(b) Every building or building works in, on, or at the columbarium meets the following requirements:</p> <p>(i) The building or building works in, on or at the columbarium form the whole, or a part, of a certifiable building;</p> <p>(ii) the certifiable building is certified to be structurally safe by a qualified professional; and</p> <p>(iii) any works required by the PCLB have been carried out.</p> <p>Please refer to <u>Chapter 4</u>, <u>Chapter 15</u>, <u>Annex 4</u> and <u>Annex 5</u> for details.</p>	
4	Right to use the columbarium premises	<p>(a) The applicant holds the columbarium premises directly from the Government under a lease; and</p> <p>(b) The owner of the columbarium premises has, or all the joint owners or co-owners of the columbarium premises, have, given authorization or consent for the premises to be used as a columbarium.</p>	sections 18(1) and 23(2)

Item	Requirement	Detail	Reference in PCO
5	Management plan	<p>A management plan covering the following matters is required:</p> <ul style="list-style-type: none"> (a) holding capacity for visitors and admission control; (b) traffic and public transport arrangement or management; (c) crowd management; (d) security management; (e) manpower deployment on peak grave sweeping days or periods and other days or periods; (f) contingency plan in the event of fire or other emergency situations; (g) measures to ensure compliance with guidelines and codes of practice issued under sections 95 and 96 of the PCO; (h) financial proposal to ensure that the columbarium can operate throughout the validity period of the interment rights sold; and (i) any other matters that the PCLB specifies. 	sections 18(2) and 97
6	Deed of mutual covenant	<p>This applies only to a columbarium where a deed of mutual covenant is in force in respect of the columbarium premises.</p> <p>The applicant must provide a written legal advice of a legal practitioner (qualified to practise as counsel or</p>	sections 18(3) and 23(3)

Item	Requirement	Detail	Reference in PCO
		<p>solicitor in Hong Kong) confirming that there is no express restrictive covenant in the deed to the effect that:</p> <ul style="list-style-type: none"> (a) any use of the premises as a columbarium is prohibited; (b) any commercial use of the premises is prohibited; or (c) only private residential use of the premises is permitted. 	
7	Fire safety	<p>The columbarium complies with the fire safety requirements for private columbaria.</p> <p>Please refer to <u>Chapter 15</u> and <u>Annex 9</u> for details.</p>	section 22
8	Impact on the environment	<p>The columbarium complies with the environmental related requirements on air pollution, drainage facilities / sewage processing and noise control.</p> <p>Please refer to <u>Chapter 15</u> and <u>Annex 10</u> for details.</p>	section 22
9	Hygiene	<p>Provision of sanitary facilities for the columbarium's visitors and special arrangements made for the festive periods</p>	section 22

Item	Requirement	Detail	Reference in PCO
10	Electrical and mechanical safety	<p>The columbarium complies with the electrical and mechanical safety requirements for private columbaria.</p> <p>Please refer to <u>Chapter 15</u> and <u>Annex 11</u> for details.</p>	section 22

(B) Licence in respect of pre-cut-off columbarium

For an application for a licence in respect of a pre-cut-off columbarium (i.e. the columbarium was in operation, with ashes interred in niches, immediately before 8 a.m. on 18 June 2014), the columbarium's ash interment layout, ash interment capacity and the extent of occupation of land as is necessary for, or ancillary to, the operation of the columbarium must be limited to that as at the cut-off time, and the applicant must prove that the columbarium complies with all of the following requirements:

Item	Requirement	Detail	Reference in PCO
1	Land-related requirements	<p>(a) The operation of the columbarium does not involve unlawful occupation of unleased land; and</p> <p>(b) The requirements in respect of the columbarium under the lease, short term tenancy or other instrument, under which the columbarium premises are held directly from the Government, are complied with.</p> <p>Please refer to <u>Chapter 15</u> and <u>Annex 7</u> for details.</p>	section 18(1) and section 1 of Schedule 2
2	Planning-related requirements	See <u>Item (2) of Chapter 3(A)</u> .	---
3	Building-related requirements	<p>If the requirements described in <u>Item (3) of Chapter 3(A)</u> are not met, the following requirements must be complied with:</p> <p>(a) The non-compliant structures necessary for, or ancillary to, the</p>	section 19 (2) and sections 3 and 4 of Schedule 2

Item	Requirement	Detail	Reference in PCO
		<p>operation of the columbarium are structures certifiable for a pre-cut-off columbarium;</p> <p>(b) The structures certifiable for a pre-cut-off columbarium are certified by a qualified professional as structurally safe; and</p> <p>(c) Any works required by the PCLB have been carried out.</p> <p>Please refer to <u>Chapter 4, Chapter 15, Annex 4</u> and <u>Annex 5</u> for details.</p>	
4	Right to use the columbarium premises	<p>(a) The applicant holds the columbarium premises directly from the Government under a lease; or</p> <p>The applicant has the right to continue to use the premises for at least 5 years from the effective date of the licence (Applicants should note that it will take time for the PCLB to consider their applications. The processing time will also be affected by the time taken by the applicants to comply with all the eligibility criteria. Hence, the applicants should make sure that their rights to use the premises should be no less than 5 years after the completion of the processing of the application.); and</p>	sections 19(3) and 23(2)

Item	Requirement	Detail	Reference in PCO
		(b) The owner of the columbarium premises has, or all the joint owners or co-owners of the columbarium premises, have, given authorization or consent for the premises to be used as a columbarium.	
5	Management plan	See <u>Item (5) of Chapter 3 (A)</u> .	---
6	Deed of mutual covenant	See <u>Item (6) of Chapter 3 (A)</u> .	---
7	Fire safety	<p>The columbarium complies with the fire safety requirements for private columbaria.</p> <p>Please refer to <u>Chapter 15</u> and <u>Annex 9</u> for details.</p>	section 22
8	Impact on the environment	<p>The columbarium complies with the environmental related requirements on air pollution, drainage facilities / sewage processing and noise control.</p> <p>Please refer to <u>Chapter 15</u> and <u>Annex 10</u> for details.</p>	section 22

Item	Requirement	Detail	Reference in PCO
9	Hygiene	Provision of sanitary facilities for the columbarium's visitors and special arrangements made for the festive periods	section 22
10	Electrical and mechanical safety	<p>The columbarium complies with the electrical and mechanical safety requirements for private columbaria.</p> <p>Please refer to <u>Chapter 15</u> and <u>Annex 11</u> for details.</p>	section 22

(C) Exemption

For an application for exemption, the applicant should prove that the pre-cut-off columbarium (i.e. the columbarium was in operation, with ashes interred in niches, immediately before 8 a.m. on 18 June 2014) complies with all the following requirements:

Item	Requirement	Detail	Reference in PCO
1	Dated columbarium	The columbarium was in operation (with at least one set of ashes interred in any niche or an interment right for any niche sold) before 1 January 1990.	sections 20(1)(d) and 20(3)
2	No sale of niches after cut-off time	The columbarium has not sold or newly let out any interment rights of niches since 8 a.m. on 18 June 2014.	section 20(1)(e)
3	Scale of operation limited to as at cut-off time	<p>The following must be limited to that as at the cut-off time:</p> <p>(a) ash interment layout;</p> <p>(b) ash interment quantity; and</p> <p>(c) extent of occupation of land as is necessary for, or ancillary to, the operation of the columbarium.</p> <p>The exception to (b) is as follows:</p> <p>For ashes interred in the columbarium between the cut-off time and the enactment date, the PCLB may permit the ashes to continue to be kept in the columbarium provided that one of the following criteria is met:</p> <p>(i) the interment right of the niche concerned was purchased or</p>	sections 20(1)(a) to (c), 20(2) and 57(14)

Item	Requirement	Detail	Reference in PCO
		<p>rented before the cut-off time and the name of the dedicated person has been entered into the endorsed register; or</p> <p>(ii) the ashes were interred in a religious ash pagoda (as defined by section 57(14) of the PCO), and no fees, charges or other sums were paid, or are payable, for the interment of the ashes.</p>	
4	Land-related requirements	<p>(a) The operation of the columbarium does not involve unlawful occupation of unleased land; and</p> <p>(b) The requirements in respect of the columbarium under the lease, short term tenancy or other instrument, under which the columbarium premises are held directly from the Government, are complied with.</p> <p>Please refer to <u>Chapter 15</u> and <u>Annex 7</u> for details.</p>	section 20(1)(f) and section 1 of Schedule 2
5	Building-related requirements	<p>If the requirements described in <u>Item (3) of Chapter 3(A)</u> are not met, the following requirements must be complied with:</p> <p>(a) The non-compliant structures necessary for, or ancillary to, the operation of the columbarium are structures certifiable for a pre-</p>	section 20(1)(g) and sections 3 and 4 of Schedule 2

Item	Requirement	Detail	Reference in PCO
		<p>cut-off columbarium; and</p> <p>(b) The structures certifiable for a pre-cut-off columbarium are certified as structurally safe and any works required by the PCLB have been carried out.</p> <p>Please refer to <u>Chapter 4</u>, <u>Chapter 15</u>, <u>Annex 4</u> and <u>Annex 5</u> for details.</p>	
6	Right to use the columbarium premises	<p>(a) The applicant holds the columbarium premises directly from the Government under a lease; or</p> <p>The applicant has the right to continue to use the premises for at least 5 years from the effective date of the exemption (Applicants should note that it will take time for the PCLB to consider their applications. The processing time will also be affected by the time taken by the applicants to comply with all the eligibility criteria. Hence, the applicants should make sure that their rights to use the premises should be no less than 5 years after the completion of the processing of the application.); and</p> <p>(b) The owner of the columbarium premises has, or all the joint owners or co-owners of the columbarium premises, have, given authorization or consent for</p>	sections 20(1)(h) and 23(2)

Item	Requirement	Detail	Reference in PCO
		the premises to be used as a columbarium.	
7	Fire safety	<p>The columbarium complies with the fire safety requirements for private columbaria.</p> <p>Please refer to <u>Chapter 15</u> and <u>Annex 9</u> for details.</p>	section 22
8	Impact on the environment	<p>The columbarium complies with the environmental related requirements on air pollution, drainage facilities / sewage processing and noise control.</p> <p>Please refer to <u>Chapter 15</u> and <u>Annex 10</u> for details.</p>	section 22
9	Hygiene	Provision of sanitary facilities for the columbarium's visitors and special arrangements made for the festive periods	section 22
10	Electrical and mechanical safety	<p>The columbarium complies with the electrical and mechanical safety requirements for private columbaria.</p> <p>Please refer to <u>Chapter 15</u> and <u>Annex 11</u> for details.</p>	section 22

(D) Temporary suspension of liability

For an application for temporary suspension of liability, the applicant should prove that the columbarium complies with all of the following requirements:

Item	Requirement	Detail	Reference in PCO
1	Pre-cut-off columbarium	The columbarium was in operation, and in which ashes were interred in niches, immediately before 8 a.m. on 18 June 2014.	section 21(1)
2	Accompanied by application for licence and/or exemption	The applicant must also concurrently apply for a licence and/or an exemption.	section 21(1)
3	Scale of operation limited to as at cut-off time or the beginning of the enactment date	<p>(a) The ash interment layout is limited to that as at the cut-off time;</p> <p>(b) If a licence is also being applied for, the ash interment capacity is limited to that as at the cut-off time and the ash interment quantity is limited to that as at the beginning of the enactment date;</p> <p>(c) If an exemption is also being applied for, the ash interment quantity is limited to that as at the cut-off time; and</p> <p>(d) The extent of occupation of land as is necessary for, or ancillary to, the operation of the columbarium is limited to that as</p>	section 21(2)(a) and (4) and section 57(14)

Item	Requirement	Detail	Reference in PCO
		<p>at the cut-off time.</p> <p>The exception to (c) is as follows: For ashes interred in the columbarium between the cut-off time and the enactment date, the PCLB may permit the ashes to continue to be kept in the columbarium provided that one of the following criteria is met:</p> <ul style="list-style-type: none"> (i) the interment right of the niche concerned was purchased or rented before the cut-off time; or (ii) the ashes were interred in a religious ash pagoda (as defined by section 57(14) of the PCO), and no fees, charges or other sums were paid, or are payable, for the interment of the ashes. 	
4	Land-related requirements	<p>If the occupation of land shown in the plans accompanying the application includes unlawful occupation of unleased land, the applicant must:</p> <ul style="list-style-type: none"> (a) have applied to the Director of Lands for lawful authority to occupy the unleased land; and (b) have provided a written declaration to the Director of Lands that the applicant has no claim to the unleased land, whether based on possession of the unleased land before, on or after the date of application or on any other ground. 	section 21(2)(b)

Item	Requirement	Detail	Reference in PCO
		Please refer to <u>Chapter 15</u> and <u>Annex 7</u> for details.	
5	Right to use the columbarium premises	If the columbarium premises are owned by private entities, the applicant provides document to prove that the owner of the columbarium premises has, or all the joint owners or co-owners of the columbarium premises, have, given authorization or consent for the premises to be used as a columbarium.	section 23(2)
6	Building related requirements	<p>The columbarium has been certified, by a qualified professional, as not posing any obvious or imminent danger in terms of building safety and fire safety.</p> <p>Please refer to <u>Chapter 15</u>, <u>Annex 4</u> and <u>Annex 6</u> for details.</p>	section 21(3)
7	Fire safety	<p>The columbarium complies with the fire safety requirements for private columbaria.</p> <p>Please refer to <u>Chapter 15</u> and <u>Annex 9</u> for details.</p>	section 22

Item	Requirement	Detail	Reference in PCO
8	Hygiene	Provision of sanitary facilities for the columbarium's visitors and special arrangements made for the festive periods	section 22
9	Electrical and mechanical safety	<p>The columbarium complies with the electrical and mechanical safety requirements for private columbaria.</p> <p>Please refer to <u>Chapter 15</u> and <u>Annex 11</u> for details.</p>	section 22

(E) On the applicant

The applicant must meet the following requirements:

- (1) the applicant operates, keeps, manages or in any other way has control of the columbarium under application or intends to do so; and
- (2) the application form specified by the PCLB must be signed by:

Type of applicant	Application form signed by
Natural person	the applicant
A partner in a partnership	the partner authorized in writing to act for and on behalf of the partnership
Body corporate	a director or other officer concerned in the management of the body corporate authorized in writing to act for and on behalf of the body corporate

(section 2 of Schedule 3 to the PCO)

(F) Columbarium not subject to specified law enforcement action

The PCLB may not grant an application for the issue of a specified instrument if the columbarium is subject to the following law enforcement action:

Ordinance	Enforcement action
<p>Town Planning Ordinance (Cap. 131)</p>	<p>(a) The operation of the columbarium, or any part of it, constitutes an unauthorized development in contravention of section 20(7) or 21(1) of the Town Planning Ordinance (Cap. 131); and</p> <p>(b) In respect of the unauthorized development:</p> <ul style="list-style-type: none"> (i) proceedings for prosecution of an offence under section 20(8) or 21(2) of that Ordinance (Cap. 131) have been instituted, whether against the applicant or any other person, before the making of the application; or (ii) a notice has been served, whether on the applicant or any other person, under section 23(1) or (2) of that Ordinance (Cap. 131) before the making of the application and has not been complied with or withdrawn.
<p>Buildings Ordinance (Cap. 123)</p>	<p>(a) Any building or building works in, on or at the columbarium, or any part of it, have been completed or carried out in contravention of section 14(1) of the Buildings Ordinance (Cap. 123); and</p> <p>(b) In respect of the building or building works, an order under section 24(1) of that Ordinance (Cap. 123) has been served, whether on the applicant or any other person, before the making of the application and has not been complied with or withdrawn.</p>

(section 17 of the PCO)

Chapter 4: Building-related requirements

Building-related requirements			
Pre-cut-off columbarium			Other columbarium
TSOL	Exemption	Licence in respect of pre-cut-off columbarium	Licence
<p>Certified as not posing obvious or imminent danger in terms of building safety and fire safety</p>	<p>(a) The columbarium complies with the requirements for approval and consent to the commencement of building works under section 14 of the Buildings Ordinance (Cap. 123) and every other requirement specified by the PCLB including requirements relating to design, construction, structure, fire precautions, health, sanitation or safety; or</p> <p>(b) Every building or building works in, on, or at the columbarium meets the following requirements:</p> <p style="margin-left: 20px;">(i) The building or building works in, on or at the columbarium form the whole, or a part, of a certifiable building;</p> <p style="margin-left: 20px;">(ii) the certifiable building is certified to be structurally safe by a qualified professional; and</p> <p style="margin-left: 20px;">(iii) any works required by the PCLB have been carried out.</p>		
	<p>If neither one of the above requirements can be met, the following must be complied with:</p> <p>(a) The non-compliant structures necessary for, or ancillary to, the operation of the columbarium are structures certifiable for a pre-</p>		---

Building-related requirements			
Pre-cut-off columbarium			Other columbarium
TSOL	Exemption	Licence in respect of pre-cut-off columbarium	Licence
	cut-off columbarium; and (b) The structures certifiable for a pre-cut-off columbarium are certified by a qualified professional as structurally safe and any works required by the PCLB have been carried out.		

What are certifiable buildings?

A **certifiable building** means:

- (1) a pre-1961 NT building;
- (2) an NT small building that came into existence on or after 1 January 1961 and before 16 October 1987, and complied with the repealed Buildings Ordinance (Application to the New Territories) Ordinance at the time of its erection;
- (3) an NT small building that came into existence on or after 16 October 1987 and which a certificate of exemption has been issued under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121); or
- (4) a building situated on land –
 - (a) that was unleased land at the time the building was erected; and
 - (b) in respect of which –
 - (i) a lease under which the columbarium premises are held directly from the Government; or
 - (ii) a short term tenancy under which the columbarium premises are occupied,is subsequently granted by the Government before the enactment date.

Please refer to section 3 of Schedule 2 to the PCO for the detailed definitions of the terms used.

What are structures certifiable for a pre-cut-off columbarium?

Structures certifiable for a pre-cut-off columbarium means non-compliant structures (i.e. any building or building works that do not meet any of the requirements referred to in section 3(1) of the Schedule 2 to the PCO) existing immediately before the cut-off time and falling within both descriptions (1) and (2) set out below.

Description (1)

- (a) they contain niches used or intended to be used for the interment of ashes where at least a niche in the structures was so used immediately before the cut-off time;
- (b) they are otherwise used for the interment of ashes and were so used immediately before the cut-off time; or
- (c) they form the whole, or a part, of any essential ancillary facilities supporting the operation of the columbarium.

Description (2)

- (a) they are on-grade outdoor structures with niches;
- (b) they form the whole, or a part, of a single-storey building;
- (c) they form the whole, or a part, of the ground storey of a multi-storey building but do not form the whole, or any part, of any other storey of the building; or
- (d) they form the whole, or a part, of a multi-storey building that is an NT small building (as defined in section 3(4) of Schedule 2 to the PCO) that came into existence on or after 16 October 1987 and in respect of which a certificate of exemption has not been issued under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121).

A reference to a building in description (2) –

- (a) is a reference to any building (having the meaning given by section 2(1) of the Buildings Ordinance (Cap. 123)), including such a building situated on land that was unleased land at the time the building was erected –
 - (i) without a licence issued under section 5 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28); or
 - (ii) in breach of such a licence; but
- (b) does not include a reference to a building situated in or on another

building that complies with the requirements for approval and consent to the commencement of building works under section 14 of the Buildings Ordinance (Cap. 123).

The following requirements are applicable to structures certifiable for a pre-cut-off columbarium:

- (1) A qualified professional must certify, to the satisfaction of the PCLB, that:
 - If description (2)(a) as mentioned above applies – the on-grade outdoor structures with niches are structurally safe; or
 - If description (2)(b), 2(c) or 2(d) as mentioned above applies – the building referred to in that description is structurally safe; and
- (2) any works required by the PCLB have been carried out in accordance with the requirements that the PCLB thinks fit to impose.

Non-compliant structures mean any building or building works that do not meet any of the requirements referred to in section 3(1) of Schedule 2 to the PCO.

Please refer to section 4 of Schedule 2 to the PCO for the detailed definitions of the terms used.

(sections 18(1), 19(2), 20(1)(g) and 21(3) and sections 3 to 7 of Schedule 2 to the PCO)

Chapter 5: Considerations relevant to determination of applications

- (1) In determining an application, the PCLB:
 - (a) must have regard to the public interest; and
 - (b) may have regard to any other relevant considerations.
- (2) In relation to an application for the issue of a licence or an exemption or an application for the extension of a TSOL, the other relevant considerations referred to (1)(b) above include (but are not limited to):
 - (a) whether the applicant has or has not complied with, in respect of the columbarium, the applicable requirements in Schedule 2 to the PCO; and
 - (b) the record of the steps that the applicant has taken in respect of the columbarium towards meeting those requirements.

(section 22 of the PCO)

- (3) For the “other relevant considerations” mentioned in (1)(b) above, the following are some examples of the “relevant considerations” which the PCLB may have regard to in the determination of applications for specified instruments (including applications for new issue, renewal and extension):
 - (a) The previous records and / or current status of the applicants / holders of specified instruments (and related persons):
 - (i) the applicant has been convicted of an offence under the PCO;
 - (ii) if the applicant is a body corporate other than a company or (where the applicant is a partner in a partnership) if any partner in the partnership is a body corporate other than a company, and the body corporate is dissolved;

- (iii) if the applicant is a company or (where the applicant is a partner in a partnership) if any partner in the partnership is a company, and –
 - (A) a resolution for voluntary winding up (as defined by section 228(2) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32)) is passed by the company;
 - (B) a winding-up statement in respect of the company is delivered to the Registrar of Companies under section 228A of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32);
 - (C) a winding-up order under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) is made against the company;
 - (D) the company is dissolved under the Companies Ordinance (Cap. 622); or
 - (E) where the company is a registered non-Hong Kong company (as defined by section 2(1) of the Companies Ordinance (Cap. 622)) — the company’s name has been struck off the Companies Register under section 798 of that Ordinance;
- (iv) if a natural person who is the applicant, or is a partner in a partnership who is the applicant or is any other partner in that partnership —
 - (A) is adjudicated bankrupt within the meaning of the Bankruptcy Ordinance (Cap. 6) or has entered into a composition or arrangement with his or her creditors without paying the creditors in full;
 - (B) is serving a sentence of imprisonment in Hong Kong or elsewhere; or
 - (C) is, in accordance with the Mental Health Ordinance (Cap. 136), found by the court to be of unsound mind

and incapable of managing himself or herself and his or her affairs; and

- (v) The applicant was convicted of criminal offence involving fraud or dishonesty in Hong Kong or other places.

The “applicant” mentioned above shall be construed as including the following references –

- if the applicant is a partner in a partnership — any other partner in that partnership; or
 - if the applicant is a body corporate — directors, other officers concerned in the management of the body corporate (including managers, company secretaries and other similar officers) and significant controllers¹.
- (b) The information submitted in or in connection with that an application contains information that is false or misleading in a material particular.
- (c) The previous records of the relevant columbarium (irrespective of whether the operator has changed or not):
- (i) the columbarium did not comply with any conditions of the specified instruments or enforcement notices (only applicable to applications for renewal or extension of specified instruments);

¹ Significant controllers include persons who satisfy one or more than one of the following conditions:

- (a) the person holds, directly or indirectly, more than 25% of the issued shares in the company (or if the company does not have a share capital, the person holds, directly or indirectly, a right or rights to share in more than 25% of the capital or profits of the company);
- (b) the person holds, directly or indirectly, more than 25% of the voting rights of the company;
- (c) the person holds, directly or indirectly, the right to appoint or remove a majority of the board of directors of the company (or if the company does not have a board of directors, the person holds the right to appoint or remove members of an equivalent management governing body holding a majority of the voting rights at meetings of the body on all or substantially all matters); or
- (d) the person has the right to exercise, or actually exercises, significant influence or control over the company.

- (ii) whether the Food and Environmental Hygiene Department has received any complaints against the relevant columbarium in recent years, especially those involving consumer protection and environmental hygiene;
 - (iii) (applicable to applications for issue of specified instruments) whether the applicant has or has not complied with, in respect of the columbarium, the applicable requirements in Schedule 2 to the PCO; and the record of the steps that the applicant has taken in respect of the columbarium towards meeting those requirements.
 - (iv) regarding the private columbarium, the number of applications submitted, rejected and withdrawn and the number of appeals lodged (irrespective of the types of specified instruments and whether the applications were made for the issue of new specified instruments or extension / renewal of specified instruments), the results of the applications and appeals, the reasons of withdrawing and rejecting the applications;
 - (v) for applications for renewal / extension of specified instruments, or for the applications for licence / exemption while holding a TSOL, the number, reason and result of verbal and written warnings given by the Director of Food and Environmental Hygiene or authorized officers, the number of enforcement notices served and the issues involved, the prosecution against the private columbarium and the conviction record, under the PCO, of the relevant private columbarium.
 - (vi) if there is any case involving a private columbarium being investigated or heard, the PCLB may, according to the circumstances, put the processing of the application on hold until the court gives it ruling.
- (d) The impact on other relevant stakeholders:
- (i) the impact on consumers and the relatives of the dedicated persons; and

(ii) the area concerned.

For the relevant columbarium's application for specified instrument, the Food and Environmental Hygiene Department will summarise the views of the public and the applicant's responses in the documents submitted to the PCLB for consideration.

Chapter 6: How to make an application

The PCLB has started to receive applications since 30 December 2017

In making an application, the applicant should note the following:

- (1) read this application guide carefully;
- (2) fill in the application form (**Annex 2** or **Annex 3**, as applicable), the application form may also be obtained:
 - by downloading from the website <http://www.rpc.gov.hk>; or
 - from the Licensing Team of the Private Columbaria Affairs Office (PCAO) via the following means:

Telephone: 2350 7319

Email: pc_app@fehd.gov.hk

Address: Units 501-502, 5/F, Trade Square, 681 Cheung Sha Wan Road, Cheung Sha Wan, Kowloon

If you would like to visit the PCAO in person to obtain the relevant application form, please first contact us by calling us.

An application form must be accompanied by a copy of the application form itself and 3 copies of the application summary of the type of specified instrument under application (please refer to Annex 20 to Annex 22 for the template).

- (3) attach all the required supporting documents (see **Chapter 8**);

- (4) engage qualified professionals as described in **Chapter 12** and other registered professionals to prepare the necessary certificates or documents which have to be issued by qualified professionals and other registered professionals;
- (5) if necessary, consult lawyers and other relevant professionals;
- (6) submit the completed application form and all supporting documents by mail to:

Private Columbaria Affairs Office
P.O. Box No. 80011
Cheung Sha Wan Post Office

(If the application is made in respect of a pre-cut off columbarium and is submitted by mail, the applicant must allow sufficient time for the mailing process to ensure that the application reaches the above address on or before **29 March 2018**).

If the applicant would like to submit the application in person, please make an appointment by calling 2350 7319 before coming to the following address at the appointed time:

Private Columbaria Affairs Office
Units 501-502, 5/F, Trade Square, 681 Cheung Sha Wan Road, Cheung Sha Wan, Kowloon

; and

- (7) for enquiries, please contact the Licensing Team of the PCAO:

Telephone number: 2892 2731
Email address: pc_app@fehd.gov.hk

IMPORTANT NOTICE

Applicants and their employees, agents and contractors must not offer an advantage as defined in the Prevention of Bribery Ordinance (Cap. 201) to any government officer or member of the PCLB in connection with their applications or while having dealings of any kind with Government departments or the PCLB.

Applicants are suggested to make reference to the “Integrity and Corruption Prevention Guide on Managing Relationship with Public Servants” issued by the Independent Commission Against Corruption (ICAC), which is available for downloading from the ICAC website:

<http://www.icac.org.hk/en/resource/publications-and-videos/ps/index.html>

Chapter 7: Procedures for processing an application

Generally, the processing of an application will include the following steps:

- (1) An applicant should send the completed application form (**Annex 2** or **Annex 3**) and sufficient copies of all the required supporting documents (see **Chapter 8**) to the PCLB via the Licensing Team of the PCAO.
- (2) Upon receipt of the application, the Licensing Team of the PCAO will assign a case officer to handle the application and inform the applicant of the contact information of the case officer.
- (3) The case officer will conduct preliminary checking on the application to see if all the necessary information in the specified application form has been filled in and all the required supporting documents have been attached.
- (4) If necessary, the case officer will invite the applicant to an interview to verify the applicant's identity and confirm the type(s) of specified instrument under application. If necessary, the case officer will require the applicant to submit the missing information and/or further supporting documents within a prescribed time frame.
- (5) If the applicant has not filled in all the required information in the specified application form (**Annex 2** or **Annex 3**) and duly signed the form, the application will not be accepted and the applicant will be informed to submit a fresh application.
- (6) If all the required information and supporting documents have not been submitted by the applicant within the prescribed time frame, the PCLB may decide to reject the application, especially for those applications in respect of pre-cut-off columbaria that must be submitted on or before 29 March 2018.
- (7) After receiving an application, the Licensing Team of the PCAO will conduct preliminary checking on the application to see if all the required information in the application form has been filled in and the form has been signed. After confirming that the required information has been filled in and the form has been signed, relevant

information will be uploaded to the “List of Applications for Specified Instruments Received by the Private Columbaria Licensing Board” (the List) in the website (<http://www.rpc.gov.hk>) for public information. At an appropriate time, the PCLB will publish a notice of the application received and post it at a conspicuous place outside the columbarium concerned.

- (8) Consultation with Government bureaux/departments concerned: If the applicant has submitted all the required information and supporting documents, the PCAO will distribute the application to the Government bureaux/departments concerned for appropriate follow-up action:

Aspect of application	Government bureau/department concerned
Land-related requirements	the District Land Offices under the Lands Department
Planning-related requirements	Planning Department
Building-related requirements ⁽¹⁾	Buildings Department
Fire-safety-related requirements	Fire Services Department
Environmental impact	Environmental Protection Department
Management plan	Transport Department, Hong Kong Police Force, Fire Services Department and Planning Department
Safety requirements on electrical installation, gas installation and lift/escalators	Electrical and Mechanical Services Department
Religious ash pagodas ⁽²⁾	Home Affairs Bureau (HAB)

Note:

- (1) For an application to which section 17(3) of the PCO is applicable, the applicant should submit an action plan (including timetable) setting out the necessary steps to be taken by the applicant as soon as practicable to achieve compliance with an order under section 24(1) of the Buildings Ordinance. The PCLB will decide, after taking into consideration the comments of relevant department(s), whether the action plan (including timetable) will be accepted as the basis for continuing to process the application. If accepted by the PCLB, the applicant should complete the steps concerned according to the action plan (including timetable) and obtain the confirmation from the relevant department that the order has been complied with. Pursuant to section 17 of the PCO, the PCLB may not grant an application for the issue of a specified instrument in respect of a columbarium if an order under section 24(1) of the Buildings Ordinance in respect of a contravention of section 14(1) of the Buildings Ordinance has been served before the making of the application for the specified instrument and the order has not been complied with or withdrawn.
- (2) For an application for exemption in respect of a “dated columbarium” which includes a religious ash pagoda and the applicant would like to rely on section 57 of the PCO to inter ashes in the religious ash pagoda, a separate application under section 57 of the PCO should be submitted to the HAB in the form specified by HAB.
- (9) Site visits: The PCAO and other Government bureaux/departments concerned may conduct visits to the columbarium premises to verify the information provided by the applicant and to collect additional information for the PCLB’s consideration. If necessary, they will further interview the applicant and/or the relevant officer or staff of the columbarium and ask them to provide additional information.
- (10) Application Vetting Panel meeting (applicable to licence and exemption applications): If necessary, an Application Vetting Panel meeting will be held, where the representatives of the departments concerned will explain to the applicant the application requirements and process.
- (11) Letter of Requirements (LoR): After obtaining the views of the Government bureaux/departments concerned, the PCAO will issue a LoR to the applicant setting out the requirements that have to be complied with. For a pre-cut-off columbarium which is applying for an exemption and has submitted direct to HAB a separate application for a religious ash pagoda, the applicant will receive another set of requirements issued by the HAB for compliance.
- (12) Reporting compliance with requirements set out in the LoR: The applicant should take prompt actions to comply with the

requirements set out in the LoR and report compliance with the requirements with the relevant documents and/or certificates to the PCAO within the time frame specified in the LoR.

After the receipt of the written confirmation from the applicant that all the requirements set out in the LoR have been fully complied with and if the relevant Government bureaux/departments consider the required documents and/or certificates submitted in respect of the application acceptable, their case officer(s) will make an appointment with the applicant to inspect the columbarium premises to verify the reported compliance with the requirements. Requirements which are found to be not complied with during the inspection will be made known to the applicant immediately. Thereafter, the applicant will be requested in writing to report within a specified time frame compliance with the outstanding requirements and that another inspection will be arranged.

If the applicant does not report compliance with the outstanding requirements to the PCAO within the specified time frame, the PCAO will report to the PCLB. In determining whether the application should be rejected, the PCLB will consider the above.

- (13) PCLB meeting: The PCLB may examine the application at an open meeting and may invite the applicant to the meeting to answer questions. It is up to the applicant to decide whether to attend the meeting. If necessary and after giving notice to the secretariat of the PCLB at least 10 working days before the date of the meeting for appropriate arrangements, the applicant may be accompanied by its/his/her consultant.
- (14) Notification of decision to the applicant: Once a decision is made on the application and upon the completion of the necessary procedures, the PCLB will inform the applicant in writing.
- (15) Appeal: If the applicant is aggrieved by the PCLB's decision on the application, the applicant may lodge a notice of appeal, in writing and in the specified form, with the Private Columbaria Appeal Board within 21 days after the date on which the written notice of the decision under appeal is given to the applicant.

Obviously non-compliant applications

If an application belongs to any of the categories (a) to (d) listed below:

- (a) a non-pre-cut-off columbarium submitting an application for TSOL / exemption / licence which is only applicable to pre-cut-off columbaria;
- (b) an application for TSOL is submitted without an accompanying application for licence and/or exemption;
- (c) it is confirmed that an application for exemption submitted by a columbarium (irrespective of whether an application for TSOL is made at the same time) cannot comply with one or more than one of the following requirements:
 - (i) the columbarium was in operation (with at least one set of ashes interred in any niche or an interment right for any niche sold) before 1 January 1990;
 - (ii) the columbarium has not sold or newly let out any interment rights of niches since 8 a.m. on 18 June 2014; and
- (d) where a deed of mutual covenant is in force in respect of the columbarium premises, the applicant has not provided a written legal advice of a legal practitioner (qualified to practise as counsel or to act as a solicitor in Hong Kong) confirming that there is no express restrictive covenant in the deed to the effect as specified in section 23(3) of the PCO;

the PCLB will upload the basic information of the above-mentioned applications to the List mentioned above and will not issue other notices. The dates of the meetings at which these applications will be considered will be published on the internet. Prior to the meetings, the applicants will be informed of the dates of the meetings at which the applications will be considered, and the applicants can decide whether to attend the meetings. After a decision has been made on an application, the PCLB will inform the applicant in writing.

Chapter 8: Supporting documents

(A) All applications

For all applications, the following supporting documents must be submitted:

(i) Documents related to a natural person <i>(if the applicant is a natural person)</i>	
1	A copy of the identity document of the applicant (Alternatively, the applicant may choose to come to the PCAO to show the original identity document for checking by the PCAO staff.)
2	The completed Appendix to the Application Form – Statement of Particulars of the Applicant and Related Persons

(ii) Documents related to a body corporate <i>(if the applicant is a body corporate)</i>	
1	A copy of the Certificate of Incorporation (which must be certified as a true copy by the Registrar of Companies) under the Companies Ordinance (Cap. 622) or the Companies Ordinance which was effective before 3 March 2014 (the former Companies Ordinance) (Cap. 32) or any other document to prove the body corporate identity of the company
2	A copy of the Notice of Change of Address of Registered Office showing the latest registered address (if applicable)
3	If the applicant is incorporated under Cap. 622 or the former Companies Ordinance, a copy (which must be certified as a true copy by the Registrar of Companies) of the latest Annual Return or the Incorporation Form (for new company which has not filed any Annual Return)
4	A resolution in writing passed by the Board of Directors to authorize a person to act for and on behalf of the body corporate, the resolution

	must state the name and identity card number of and the position held by the authorized person
5	Notice of acceptance of the authorization signed by the authorized person
6	A copy of the Memorandum and Articles of Association of the body corporate (a new company incorporated under Cap. 622 only has to submit a copy of the Articles of Association)
7	A copy of the Business Registration Certificate
8	A copy of the identity document of the authorized person (Alternatively, the authorized person may choose to come to the PCAO to show the original identity document for checking by the PCAO staff.)
9	A copy of the identity document of any director, manager, company secretary or other similar officer concerned in the management of the body corporate (Alternatively, the above-mentioned director, manager, company secretary or other officer may choose to come to the PCAO to show their original identity documents for checking by the PCAO staff.)
10	The completed Appendix to the Application Form – Statement of Particulars of the Applicant and Related Persons

(iii) Documents related to partnership

(if the applicant is a partner in a partnership)

1	Written authorization signed by all the partners in the partnership to authorize one of the partners to act for and on behalf of the partnership
2	Notice of acceptance of the authorization signed by the authorized partner
3	A copy of the identity document of the authorized partner, any other partner or any other person concerned in the management of the partnership (Alternatively, the above-mentioned authorized partner, other partner(s) or any other person concerned in the management of the

	partnership may choose to come to the PCAO to show their original identity documents for checking by the PCAO staff.)
4	A copy of the Business Registration Certificate
5	The completed Appendix to the Application Form – Statement of Particulars of the Applicant and Related Persons

(iv) Proposed plans

The applicant must submit the following plans which comply with the specified template according to the type(s) of specified instruments under application

Type(s) of specified instruments	Specified template	Number of copies to be submitted
licence application by a non-pre-cut-off columbarium	<u>Annex 12</u>	11 copies
concurrent applications for licence and TSOL by a pre-cut-off columbarium	<u>Annex 13</u>	Proposed plans for licence: 11 copies Proposed plans for TSOL: 8 copies
concurrent applications for exemption and TSOL by a pre-cut-off columbarium	<u>Annex 14</u>	<u>If there are no religious ash pagodas:</u> Proposed plans for exemption: 9 copies Proposed plans for TSOL: 8 copies
		<u>If there are religious ash pagodas:</u> Proposed plans for exemption: 10 copies Proposed plans for TSOL: 9 copies

<p>concurrent applications for licence, exemption and TSOL by a pre-cut-off columbarium</p>	<p><u>Annex 15</u></p>	<p><u>If there are no religious ash pagodas:</u></p> <p>Proposed plans for licence: 11 copies</p> <p>Proposed plans for exemption: 9 copies</p> <p>Proposed plans for TSOL: 8 copies</p>
		<p><u>If there are religious ash pagodas:</u></p> <p>Proposed plans for licence: 11 copies</p> <p>Proposed plans for exemption: 10 copies</p> <p>Proposed plans for TSOL: 9 copies</p>
<ul style="list-style-type: none"> • For the proposed plans of a columbarium’s application for specified instruments, it is necessary to submit 1 copy each of the certification completed by the applicant and by the qualified professional according to the specified format at <u>Annex 12</u> to <u>Annex 15</u> respectively. • It is necessary to submit only 3 copies of the part on niche information of the relevant floor plans. • Please provide the soft-copy of the above-mentioned plans (PDF or Word format should be used for the proposed site plan, proposed layout plan and proposed floor plans, and the niche information appended to the proposed floor plans should follow the specified Excel format and be stored in a CD ROM). • For each of the above proposed plans, a qualified professional (see <u>Chapter 12</u>) must: <ul style="list-style-type: none"> - certify that the current site situation of the columbarium premises conforms to the plan in all respects; or - if the current site situation of the columbarium premises does not conform to the plans in all respects – identify the difference, with annotations, on the plans. 		

- According to the type(s) of specified instruments under application, the plans must also contain evidence of the relevant eligibility-related particulars.
- If the columbarium participated in the Notification Scheme (N.S.) launched in 2014 by the Food and Environmental Hygiene Department (FEHD), the applicant may (if he/she is sure that the information is accurate) provide a copy of all the information provided by the operator to FEHD under the N.S. and confirm / declare that the information is factually correct.
 - If the information provided by the columbarium under the N.S. is not sufficient to prove that the relevant requirements of the application have been satisfied, the applicant must provide supplementary information in support of the application.

Revised plans (if applicable)

Whenever the applicant wants to make changes to the plans already submitted to the PCLB, the applicant should submit revised proposed plans. In the revised proposed plans, the changes made should be highlighted in different colours, accompanied by brief annotations. The revised plans should also be certified by a qualified professional as required above.

(v) The information and documents which have to be submitted regarding the Fire Services Department's fire safety guidelines and requirements for private columbaria

Please refer to **Annex 9**.

Number of copies to be submitted: Besides the information and copies of documents which the Fire Services Department requires, it is necessary to provide an extra copy to the PCAO.

(vi) The information and documents which have to be submitted regarding the Electrical and Mechanical Services Department's requirements on electrical and mechanical safety for private columbaria

Please refer to **Annex 11**.

Number of copies to be submitted: Besides the information and copies of documents which the Electrical and Mechanical Services Department requires, it is necessary to provide an extra copy to the PCAO.

(B) Licence

For an application for licence, the following supporting documents must be submitted:

(i) Land-related requirements
<p>Please refer to <u>Annex 7</u>.</p> <p>Number of copies to be submitted: Besides the information and copies of documents which the Lands Department requires, it is necessary to provide an extra copy to the PCAO.</p>

(ii) Planning-related requirements
<p>Please refer to <u>Annex 8</u>.</p> <p>Number of copies to be submitted: Besides the information and copies of documents which the Planning Department requires, it is necessary to provide an extra copy to the PCAO.</p>

(iii) Building-related requirements (please refer to <u>Chapter 4</u> for details)		
The applicant must provide the following proof:		
1	<p>If the columbarium complies with the requirements for approval and consent to the commencement of building works under section 14 of the Buildings Ordinance (Cap. 123), the applicant must provide a copy of the relevant approval and consent;</p> <p>If the PCLB or the Buildings Department specifies other requirements during the determination of the application, the applicant must provide certification issued by a qualified professional (see <u>Chapter 12</u>) certifying that such requirements have been</p>	---

	met; or	
2	<p>If every building or building works in, on or at the columbarium forms the whole, or a part, of a certifiable building, the applicant must provide certification issued by a qualified professional (see <u>Chapter 12</u>) certifying that the certifiable building is structurally safe;</p> <p>If the PCLB or the Buildings Department requires any works to be conducted, the applicant must provide certification issued by a qualified professional that the works have been completed and that certifiable building is structurally safe.</p> <p>Number of copies to be submitted: Besides the information and copies of documents which the Buildings Department requires, it is necessary to provide an extra copy to the PCAO.</p>	Please use the specified form at <u>Annex 5</u>

(iv) Right to use the columbarium premises

1	The applicant must prove that the applicant holds the columbarium premises directly from the Government under a lease.
2	Written authorization or consent given by the owner of the columbarium premises, or all the joint owners or co-owners of the columbarium premises, for the premises to be used as a columbarium

(v) Management plan

The applicant has to submit **5 copies** of the management plan (the management plan template is at **Annex 16**) for consideration by the PCLB, Transport Department, Hong Kong Police Force, Fire Services Department and Planning Department.

(vi) Where a deed of mutual covenant is in force in respect of the columbarium premises:

If a deed of mutual covenant is in force in respect of the columbarium premises:

- A written legal advice of a lawyer (qualified to practise as a counsel or solicitor in Hong Kong) confirming that there is no express restrictive covenant in the deed to the effect that:
 - (a) any use of the premises as a columbarium is prohibited;
 - (b) any commercial use of the premises is prohibited; or
 - (c) only private residential use of the premises is permitted.

(vii) Sample of agreement for sale of interment right

Regarding the agreement for sale of interment right of the columbarium, the applicant must submit a sample of the agreement for sale of interment right which is intended to be used and the sample agreement must comply with section 49(2) and (3) of the PCO and Schedule 4 to the PCO. Please make reference to the template at [Annex 17](#).

(viii) Application summary for licence (for promulgation)

3 copies of the application summary for licence prepared according to the specified template at [Annex 20](#) (including that the proposed site plan of the columbarium and the proposed layout plan of the columbarium have to be drawn according to the metric scale, with the size of the paper no smaller than A3) have to be submitted for promulgation to inform the public of the main content of the application. The PCLB will promulgate the summary in ways which it deems fit, e.g. publishing it on the internet or making it available for inspection by the public at specified locations.

(ix) Environmental Protection Department's requirements and regulations

Please refer to **Annex 10**.

Number of copies to be submitted: Besides the information and copies of documents which the Environmental Protection Department requires, it is necessary to provide an extra copy to the PCAO.

(C) Licence in respect of pre-cut-off columbarium

For an application for licence in respect of a pre-cut-off columbarium, the following supporting documents must be submitted:

(i) Land-related requirements
<p>Please refer to <u>Annex 7</u>.</p> <p>Number of copies to be submitted: Besides the information and copies of documents which the Lands Department requires, it is necessary to provide an extra copy to the PCAO.</p>

(ii) Planning-related requirements
<p>Please refer to <u>Annex 8</u>.</p> <p>Number of copies to be submitted: Besides the information and copies of documents which the Planning Department requires, it is necessary to provide an extra copy to the PCAO.</p>

(iii) Building-related requirements (please refer to <u>Chapter 4</u> for details)		
The applicant must provide the following proof:		
1	<p>If the columbarium complies with the requirements for approval and consent to the commencement of building works under section 14 of the Buildings Ordinance (Cap. 123), the applicant must provide a copy of the relevant approval and consent;</p> <p>If the PCLB or the Buildings Department specifies other requirements during the determination of the application, the applicant must provide certification issued by a qualified professional (see <u>Chapter 12</u>) certifying that such requirements have been</p>	---

	met; or	
2	<p>If every building or building works in, on or at the columbarium forms the whole, or a part, of a certifiable building, the applicant must provide certification issued by a qualified professional (see Chapter 12) certifying that the certifiable building is structurally safe;</p> <p>If the PCLB or the Buildings Department requires any works to be conducted, the applicant must provide certification issued by a qualified professional that the works have been completed and that certifiable building is structurally safe; or</p>	Please use the specified form at <u>Annex 5</u>
3	<p>If there are non-compliant structures, the applicant must provide certification issued by a qualified professional (see Chapter 12) certifying that the structures necessary for, or ancillary to, the operation of the columbarium are structures certifiable for a pre-cut-off columbarium and are structurally safe;</p> <p>If the PCLB or the Buildings Department requires any works to be conducted, the applicant must provide certification issued by a qualified professional that the works have been completed and that building is structurally safe.</p> <p>Number of copies to be submitted: Besides the information and copies of documents which the Buildings Department requires, it is necessary to provide an extra copy to the PCAO.</p>	Please use the specified form at <u>Annex 5</u>

(iv) Right to use the columbarium premises

1	<p>If the documents mentioned in item (i) above cannot be provided: The applicant must prove that the applicant has the right to use the</p>
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	premises (stating the starting and expiry dates) and that there are at least five years of right to use from the issue date of the licence
2	Written authorization or consent given by the owner of the columbarium premises, or all the joint owners or co-owners of the columbarium premises, for the premises to be used as a columbarium

(v) Management plan

The applicant has to submit **5 copies** of the management plan (the management plan template is at **Annex 16**) for consideration by the PCLB, Transport Department, Hong Kong Police Force, Fire Services Department and Planning Department.

(vi) Where a deed of mutual covenant is in force in respect of the columbarium premises:

If a deed of mutual covenant is in force in respect of the columbarium premises:

- A written legal advice of a lawyer (qualified to practise as a counsel or solicitor in Hong Kong) confirming that there is no express restrictive covenant in the deed to the effect that:
 - (a) any use of the premises as a columbarium is prohibited;
 - (b) any commercial use of the premises is prohibited; or
 - (c) only private residential use of the premises is permitted.

(vii) Sample of agreement for sale of interment right

Regarding the agreement for sale of interment right of the columbarium, the applicant must submit a sample of the agreement for sale of interment right which is intended to be used and the sample agreement must comply with section 49(2) and (3) of the PCO and Schedule 4 to the PCO. Please make reference to the template at **Annex 17**.

(viii) Application summary for licence (for promulgation)

3 copies of the application summary for licence prepared according to the specified template at **Annex 20** (including that the proposed site plan of the columbarium and the proposed layout plan of the columbarium have to be drawn according to the metric scale, with the size of the paper no smaller than A3) have to be submitted for promulgation to inform the public of the main content of the application. The PCLB will promulgate the summary in ways which it deems fit, e.g. publishing it on the internet or making it available for inspection by the public at specified locations.

(ix) Environmental Protection Department's requirements and regulations

Please refer to **Annex 10**.

Number of copies to be submitted: Besides the information and copies of documents which the Environmental Protection Department requires, it is necessary to provide an extra copy to the PCAO.

(D) Exemption

For an application for exemption, the following supporting documents must be submitted:

(i) Dated columbarium
<p>The applicant must provide evidence proving that at least one set of ashes was interred in any niche or an interment right for any niche was sold before 1 January 1990.</p> <p>Examples of such evidence include one or more of the following:</p> <ul style="list-style-type: none"> • sale agreement; • register showing the sales record; • receipt of payment containing relevant information; • photograph showing the ash interment date and name of the deceased on the plaque of the relevant niche; and • correspondence between the purchaser and the columbarium confirming the sales transaction.

(ii) Land-related requirements
<p>Please refer to <u>Annex 7</u>.</p> <p>Number of copies to be submitted: Besides the information and copies of documents which the Lands Department requires, it is necessary to provide an extra copy to the PCAO.</p>

(iii) Building-related requirements (please refer to <u>Chapter 4</u> for details)		
The applicant must provide the following proof:		
1	If the columbarium complies with the requirements for approval and consent to the commencement of building works	---

	<p>under section 14 of the Buildings Ordinance (Cap. 123), the applicant must provide a copy of the relevant approval and consent;</p> <p>If the PCLB or the Buildings Department specifies other requirements during the determination of the application, the applicant must provide certification issued by a qualified professional (see <u>Chapter 12</u>) certifying that such requirements have been met; or</p>	
2	<p>If every building or building works in, on or at the columbarium forms the whole, or a part, of a certifiable building, the applicant must provide certification issued by a qualified professional (see <u>Chapter 12</u>) certifying that the certifiable building is structurally safe;</p> <p>If the PCLB or the Buildings Department requires any works to be conducted, the applicant must provide certification issued by a qualified professional that the works have been completed and that certifiable building is structurally safe; or</p>	Please use the specified form at <u>Annex 5</u>
3	<p>If there are non-compliant structures, the applicant must provide certification issued by a qualified professional (see <u>Chapter 12</u>) certifying that the structures necessary for, or ancillary to, the operation of the columbarium are structures certifiable for a pre-cut-off columbarium and are structurally safe;</p> <p>If the PCLB or the Buildings Department requires any works to be conducted, the applicant must provide certification issued by a qualified professional that the works</p>	Please use the specified form at <u>Annex 5</u>

	<p>have been completed and that building is structurally safe.</p> <p>Number of copies to be submitted: Besides the information and copies of documents which the Buildings Department requires, it is necessary to provide an extra copy to the PCAO.</p>	
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(iv) Right to use the columbarium premises		
1	<p>If the documents mentioned in item (ii) above cannot be provided:</p> <p>The applicant must prove that the applicant has the right to use the premises (stating the starting and expiry dates) and that there are at least five years of right to use from the issue date of the exemption</p>	
2	<p>Written authorization or consent given by the owner of the columbarium premises, or all the joint owners or co-owners of the columbarium premises, for the premises to be used as a columbarium</p>	

(v) If there are niches sold before the cut-off time that are unfilled or partially filled:		
<p>The applicant has to provide a register on the niches in the columbarium which interment rights were sold before the cut-off time but have not been exercised (if any). The register must follow the specified template at <u>Annex 18</u>.</p> <p>The applicant has to provide a register on the niches in the columbarium which interment rights were sold before the cut-off time but have only been partially exercised (if any). The register must follow the specified template at <u>Annex 19</u>.</p> <p>Please provide an electronic copy of the above-mentioned register(s) (for interment rights which have not been exercised and / or interment rights which have only been partially exercised) by using the Excel format of the</p>		

registers in Annex 18 and Annex 19 and storing the register(s) in CD ROM(s).

(vi) Environmental Protection Department's requirements and regulations

Please refer to **Annex 10**.

Number of copies to be submitted: Besides the information and copies of documents which the Environmental Protection Department requires, it is necessary to provide an extra copy to the PCAO.

(vii) Information of religious ash pagodas (if applicable) (please refer to Chapter 11 for details)

1	Must satisfy the definition as stated in section 2 of the Chinese Temples Ordinance (Cap.153)
2	In the plans submitted (as described in <u>Item (iv) in Section (A) of this Chapter</u>), the applicant has to provide information on the religious ash pagodas according to the specified template (if applicable).

(viii) Application summary for exemption (for promulgation)

3 copies of the application summary for exemption prepared according to the specified template at **Annex 21** (including that the proposed site plan of the columbarium and the proposed layout plan of the columbarium have to be drawn according to the metric scale, with the size of the paper no smaller than A3) have to be submitted for promulgation to inform the public of the main content of the application. The PCLB will promulgate the summary in ways which it deems fit, e.g. publishing it on the internet or making it available for inspection by the public at specified locations.

(E) Temporary suspension of liability

An application for temporary suspension of liability (TSOL) must be accompanied by an application for a licence or an exemption or applications for both licence and exemption. In addition to the supporting documents applicable to a licence and/or exemption application, as the case may be, the applicant must submit the following supporting documents for a TSOL application:

(i) Building-related requirements (please refer to Chapter 4 for details)

The columbarium has been certified by a qualified professional (see Chapter 12) as not posing any obvious or imminent danger in terms of building safety and fire safety. Please use the specified form at Annex 6.

Number of copies to be submitted: Besides the information and copies of documents which the Building Department requires, it is necessary to provide an extra copy to the PCAO.

(ii) Land-related requirements

If the occupation of land as shown in the proposed plans includes unlawful occupation of unleased land:

- (1) The applicant must provide evidence to show that the applicant has applied to the Director of Lands for lawful authority to occupy the unleased land; and
- (2) The applicant must provide evidence to show that the applicant has provided a written declaration to the Director of Lands that the applicant has no claim to the unleased land, whether based on possession of the unleased land before, on or after the date of application or on any other ground.

Please use the specified form at Annex 7.

Number of copies to be submitted: Besides the information and copies of documents which the Lands Department requires, it is necessary to provide an extra copy to the PCAO.

(iii) Right to use the columbarium premises

If the premises of the columbarium are privately owned, the applicant must provide supporting documents showing the authorization or consent given by the owner of the columbarium premises, or all the joint owners or co-owners of the columbarium premises, for the premises to be used as a columbarium

(iv) If the TSOL application is submitted with an exemption application and any eligibility criteria for exemption have not been complied with:

An action plan with timetable for the applicant to take the necessary steps to achieve compliance with the eligibility criteria for exemption in a timely manner

(v) If the TSOL application is submitted with a licence application and any eligibility criteria for licence have not been complied with:

An action plan with timetable for the applicant to take the necessary steps to achieve compliance with the eligibility criteria for licence in a timely manner

(vi) Application summary for TSOL (for promulgation)

3 copies of the application summary for TSOL prepared according to the specified template at **Annex 22** (including that the proposed site plan of the columbarium and the proposed layout plan of the columbarium have to be drawn according to the metric scale, with the size of the paper no smaller than A3) have to be submitted for promulgation to inform the public of the main content of the application. The PCLB will promulgate the summary in ways which it deems fit, e.g. publishing it on the internet or making it available for inspection by the public at specified locations.

Chapter 9: Time limit for submission of applications

Type of application	Time limit (Note)
Specified instrument in respect of a pre-cut-off columbarium	From 30 December 2017 to 29 March 2018, both days inclusive
Renewal of a licence or an exemption	Not later than 18 months before the expiry of the validity period of the licence or exemption
Extension of TSOL	If the validity period of TSOL exceeds 12 months – not later than 12 months before the expiry of the validity period If the validity period of TSOL does not exceed 12 months – not later than the date specified by the PCLB
Licence for a columbarium which commenced operation after the cut-off time (8:00 a.m. on 18 June 2014)	No time limit

Note:

The PCLB may consider an application for a specified instrument out of time if the applicant has a reasonable excuse for failing to make the application within time; and in all circumstances of the case, the PCLB considers that it is just and equitable to consider the application.

(section 14 of the PCO)

Chapter 10: Validity period of specified instruments

- (1) The PCLB may, in its discretion, determine the term for which the specified instrument is issued, renewed or extended (the validity period).
- (2) The validity period of a licence must not exceed the shorter of the following item (a) and item (b):
 - (a) where:
 - (i) the columbarium premises are held directly from the Government under a lease – the remainder of the term of the lease; or
 - (ii) the columbarium premises are occupied under a tenancy – the remainder of the term of the tenancy;
 - (b) 10 years.
- (3) The validity period of an exemption must not exceed:
 - (a) where the columbarium premises were held directly from the Government under a lease – the remainder of the term of the lease; or
 - (b) where the columbarium premises are occupied under a tenancy – the remainder of the term of the tenancy.
- (4) The validity period of a TSOL must not exceed 3 years.
- (5) Where the columbarium premises are occupied under a short term tenancy granted by the Government, the validity period of a specified instrument issued, renewed or extended in respect of the premises may be concurrent with the period for which the short term tenancy lasts, subject to item (2)(b) and item (4) above.

- (6) A TSOL may not be extended more than once, unless exceptional circumstances exist.

(section 15 of the PCO)

Chapter 11: Religious ash pagodas

(1) Under the PCO, a religious ash pagoda is defined as:

- in relation to a pre-cut-off columbarium that is a columbarium of a Chinese temple, any part of that columbarium that is used for interment of the ashes of the religious practitioners of that temple;
- a Chinese Temple has the meaning given by section 2 of the Chinese Temple Ordinance (Cap. 153); and
- religious practitioners are the Buddhist monks and nuns and Taoist priests and priestesses (as the case requires) residing and serving in that temple immediately before death (but exclude their family members and any other persons related to that temple, whether as followers, donors or otherwise of that temple).

(2) How to apply to become a specified religious ash pagoda:

- must obtain an exemption issued by the PCLB;
- must make an application to the Secretary for Home Affairs (SHA) for the specification of the columbarium of a Chinese temple and the religious ash pagoda(s) in the columbarium under section 57(2) of the PCO for approval. The application guideline and form are at **Annex 23**; and
- the applicant should submit the application form at **Annex 23** to the SHA while making the application for exemption to the PCLB.

(3) The specified religious ash pagoda must comply with the following requirements:

- they should be used for interment of the ashes of religious practitioners only;
- no fees, charges or other sums may be payable for interment of the ashes;
- the number of sets of ashes that may be interred after the issue of an exemption by the PCLB and the specification by the SHA in a notice published in the Gazette must not exceed the ceiling set by the SHA (the maximum number of sets of ashes that may be interred in the religious ash pagoda(s) in a columbarium set by the SHA must not exceed 1 000);
- they must keep a register of all ashes interred in the religious ash pagoda(s) and comply with any requirements or conditions imposed by the SHA; and
- they must comply with any requirements or conditions imposed by the PCLB on the exemption.

(4) Transitional arrangements:

- If the ashes of the religious practitioners were interred in a religious ash pagoda after the cut-off time and before the enactment date, the operator can continue to keep the interred ashes in the religious ash pagoda for a period of 9 months beginning on the enactment date or during the processing of a TSOL application.
- If the following requirements are met, the PCLB may approve the continued keeping of the ashes in that religious ash pagoda during the validity period of the exemption and TSOL:
 - The ashes interred in a religious ash pagoda (as defined by section 57(14) of the PCO), where no fees, charges or other sums were paid, or are payable, for the interment of ashes.

- (5) If the ashes interred or the way the ashes are interred in a religious ash pagoda do not meet the requirements stated above, the columbarium concerned is required to apply for an appropriate specified instrument according to the statutory requirements, following the same arrangements for other columbaria.

(section 57 of the PCO)

Chapter 12: Qualified professionals and other registered professionals

For the purpose stated in the first column below, the qualified professional refers to the persons specified in the second column below:

Purpose	Qualified professional	Reference in this Guide	Reference in PCO
Certify that a columbarium does not pose any obvious or imminent danger in terms of building safety and fire safety	Two types of people having the meanings given by section 2(1) of the Buildings Ordinance (Cap. 123): (i) authorized person (ii) registered structural engineer	Item (6) of Chapter 3(D) and Chapter 4	section 21(3)
Certify that the current site situation of the columbarium premises conforms to the plan in all respects; or If the current site situation of the columbarium premises does not conform to the plans in all respects – identify the difference, with annotations, on the plans		Item (iv) of Chapter 8(A)	section 25(4)
Issue certificates or reports on building safety, fire safety, other safety matters, drainage and sewage at regular intervals		N/A (maybe imposed by the PCLB as conditions of specified instruments)	sections 31(c), 34(a) and 37(a)
Certify that every other requirement specified by the PCLB including requirements relating to design, construction, structure, fire precautions, health, sanitation or safety has been complied		(maybe imposed by the PCLB as conditions of specified instruments)	section 22(2)(b) and section (3)(1)(a) of Schedule 2

Purpose	Qualified professional	Reference in this Guide	Reference in PCO
with			
Certify that a certifiable building is structurally safe		Item (3) of Chapter 3(A) and Chapter 4	section (3)(1)(b)(ii) of Schedule 2
Certify that structures certifiable for a pre-cut off columbarium are structurally safe		Item (3) of Chapter 3(B), item (5) of Chapter 3(C) and Chapter 4	section (4)(3)(a) of Schedule 2
Certify building safety and compliance with the prevailing building safety and fire safety standards as well as structural, drainage and sewage requirements		Not applicable (maybe required by the PCLB with regard to an application for specified instrument)	section 3(a) of Schedule 3
Certify that any works required by the PCLB have been carried out			sections 3(1)(b)(iii) and 4(3)(b) of Schedule 2
Issue certificates of fire service installations and equipment to prove that they are in efficient working order	Registered Fire Service Installation Contractor	Not applicable (maybe required by the PCLB with regard to an application for specified instrument)	section 3(1)(b) of Schedule 3

Chapter 13: Grace period

Commencement of columbarium operation	Remarks	Grace period (Note)
Had a niche sold or with ashes interred in a niche before 1 January 1990	Must be in operation and had ashes interred in niches immediately before 8 a.m. on 18 June 2014	9 months from 30 June 2017 to 29 March 2018; and
Commenced operation on or after 1 January 1990 but before 8 a.m. on 18 June 2014		If the columbarium has submitted an application for a TSOL: from 30 June 2017 to the time when the TSOL application is finally disposed of or withdrawn
Commenced operation on or after 8 a.m. on 18 June 2014 but before 30 June 2017	---	If the columbarium was in operation immediately before 30 June 2017: 9 months beginning on 30 June 2017 and ending on 29 March 2018.
Commenced operation on or after 30 June 2017	---	Not applicable

Note:

During the grace period, an operator may continue to operate the relevant private columbarium provided that no sale or new letting out of interment right of niches is conducted.

(Schedule 7 to the PCO)

Chapter 14: Frequently asked questions

Q.1: Is it certain that the private columbaria which joined the “Notification Scheme” launched in 2014 will be issued a licence, an exemption or a TSOL under the PCO?

A.1: No.

According to the licensing scheme established under the PCO, private columbaria may submit applications for the appropriate specified instruments (i.e. a licence, an exemption or a TSOL) according to their actual circumstances and operational needs. The private columbaria must fulfil all relevant requirements before they can be issued the specified instruments for continuing their operation. Only licensed private columbaria are allowed to sell or newly let out niches.

To collect information on the private columbaria already in existence and in operation before the cut-off time (i.e. 8 a.m. on 18 June 2014), the Food and Environmental Hygiene Department launched a “Notification Scheme” in 2014 to invite operators to provide operational particulars of their private columbaria, so that the PCLB can make reference to the information when processing the columbaria’s applications for specified instruments in the future. The “Notification Scheme” is not a licensing scheme. There is **no** such implication that the private columbaria which joined the “Notification Scheme” will necessarily be issued specified instruments.

Q.2: For private columbaria which joined the “Notification Scheme” launched in 2014, how will they be affected upon the enactment of the PCO in respect of their applications for specified instruments?

A.2: If a private columbarium participated in the Notification Scheme (N.S.) launched in 2014, the applicant may provide the PCLB with a copy of the information provided by the operator to FEHD under the N.S. and confirm / declare that such information is factually correct. The PCLB will make reference to such information when determining the application for specified instrument.

Q.3: For private columbaria which did not join the “Notification Scheme” launched in 2014, will their applications for specified instruments be affected after the enactment of the PCO?

A.3: For private columbaria which commenced operation before 8 a.m. on 18 June 2014 (i.e. the cut-off time) but did not join the Notification Scheme launched in 2014, , they must provide detailed evidence and documents to the PCLB for the PCLB to consider whether the columbaria satisfy the requirements for being pre-cut-off columbaria if the operators would now like to apply for specified instruments in the capacity of pre-cut-off columbaria.

Q.4: Is it certain that the columbaria listed in Part A of the Development Bureau’s “Information on Private Columbaria” webpage will be issued a licence?

A.4: The Development Bureau’s “Information on Private Columbaria” webpage only provides to the public information on the land/lease (user restrictions) and planning aspects of the relevant private columbaria. Part A lists out private columbaria which comply with the user restrictions in the land leases, comply with the statutory town planning requirements and are not illegally occupying Government land. However, Part A does not mention whether the private columbaria concerned comply with the other requirements under the PCO (e.g. other restrictions in the land leases, requirements related to the buildings, right to use the premises, deed of mutual covenant, etc.). Therefore, it is **not** certain that these private columbaria will be issued a licence, exemption of TSOL.

Under the PCO, if a private columbarium would like to obtain a licence, it has to satisfy all the relevant requirements. Please refer to Chapter 3 of this Guide for details.

Chapter 15: Roles of different Government departments

(1) The roles of the Food and Environmental Hygiene Department

- To receive applications on behalf of the PCLB;
- To conduct preliminary checking on whether all the required information and documents have been submitted and in the specified form;
- To coordinate comments from other Government bureaux and departments on whether the columbarium which is applying for specified instrument(s) satisfies the relevant requirements and whether it is necessary to impose any conditions on the specified instrument(s) under application;
- To advise the PCLB on matters relating to hygiene;
- To conduct site visits to verify the information provided by the applicant and to obtain further information necessary for the consideration of the application by the PCLB;
- To consolidate comments and recommendations from relevant Government bureaux and departments on the applications and submit them to the PCLB for consideration; and
- To provide general support to the PCLB on the implementation of the PCO.

(2) The roles of the Lands Department

- The Lands Department will advise the PCLB on the compliance with land-related requirements by the private columbaria under application, and consider their associated regularisation applications in accordance with the established policies.
- Regarding applications for TSOL, if the extent of occupation of

land as shown on the plan attached to the application form involves unlawful occupation of unleased land, the Lands Department will advise the PCLB on whether the applicant has applied for lawful authority to occupy the unleased land; and has produced evidence to prove that a written declaration stating that the applicant has no claim to the unleased land (whether based on the possession of the unleased land before, on or after the date of application or on any other ground) has been submitted to the Director of Lands.

- Lands Department's checklist of basic requirements is at **Annex 7**.

(3) The roles of the Planning Department

- The Planning Department will advise on matters related to planning, including whether the columbarium under application complies with the planning-related requirements under the Town Planning Ordinance or requires the submission of planning application.
- The Planning Department's checklist, planning-related requirements and guidelines are at **Annex 8**.

(4) The roles of the Buildings Department

- The Buildings Department offers to the PCLB comments on building requirements related to building safety, fire safety, design, construction and structure.
- The Buildings Department's relevant guidelines and format for certification are at **Annex 4 to Annex 6**.

(5) The roles of the Fire Services Department

- The Fire Services Department will provide advice to the PCLB

on the fire safety of the private columbaria, and will formulate fire safety requirements for applications for specified instruments.

- Relevant fire safety guidelines and requirements are at **Annex 9**.

(6) The roles of the Environmental Protection Department (EPD)

- The role of the EPD is to support the PCLB in processing applications for licence/exemption. The EPD will provide professional advice to the PCLB from the environmental protection perspective, with a view to preventing and minimizing the impact on the environment arising from the operations of the private columbaria.
- The requirements on environmental protection are at **Annex 10**.

(7) The roles of the Transport Department

- In the processing of applications for licence, the Transport Department will provide comments on matters in relation to transport and traffic issues (e.g. traffic impact, car parking and loading/unloading provisions, etc.), under the management plans submitted according to section 97 of the PCO.

(8) The roles of the Hong Kong Police Force

- Regarding the management plans submitted by licence applicants, the Hong Kong Police Force will offer comments to the PCLB on issues concerning public safety, crowd control management and traffic management.

(9) The roles of the Electrical and Mechanical Services Department

- The applicant should submit relevant certificates/permits/forms

to the PCLB if fixed electrical installation, lift or escalator is to be installed/used/operated in the private columbarium.

- The permit to use/operate lift or escalator shall be issued by the Electrical and Mechanical Services Department, and the certificate for fixed electrical installation as well as the form for lift or escalator shall be issued by electrical, lift or escalator contractors registered with the Electrical and Mechanical Services Department, to certify/confirm that the fixed electrical installation, lift or escalator in the private columbarium complies with relevant statutory requirements.
- Any specific queries concerning the safety of electricity, lift or escalator can be directed to the Electrical and Mechanical Services Department.
- Electrical and Mechanical Services Department's requirements and advisory notes on electrical and mechanical safety are at **Annex 11**.

Please refer to **Annex 24** for the contact information of the PCLB and related bureaux/departments.

Chapter 16: Glossary

The definition of some of the key terms of the PCO is listed below for reference. The applicant should refer to the relevant provisions in the PCO for the exact definitions.

Definitions	Reference in PCO
<p><i>Approved management plan</i> (經批准管理方案), in relation to a columbarium, means—</p> <p>(a) the management plan required under section 18(2) that is approved for the purpose of an application for the issue of a licence in respect of the columbarium; or</p> <p>(b) if such a plan is varied under section 42, the plan as varied.</p>	Section 2
<p><i>Approved plans</i> (經批准圖則) in relation to a columbarium, means—</p> <p>(a) plans approved under section 26 (as read with section 27(3), if applicable) in respect of the columbarium that are, on the issue of a specified instrument in respect of the columbarium, annexed to the instrument; or</p> <p>(b) if such plans are varied under section 42, the plans as varied.</p>	Section 2
<p><i>Ashes</i> (骨灰)—</p> <p>(a) means ashes resulting from the cremation of human remains, and (except in the context of ash transforming work) includes synthetic diamonds, jewellery, ornaments and any other materials transformed from human ashes; and</p> <p>(b) includes the container of such ashes, as well as any items interred together with such ashes in the same container (if applicable), except for the following provisions—</p> <p>(i) section 68(3)(d)(iv) and (v);</p> <p>(ii) the definitions of <i>eligible claimant</i> and <i>related item</i> in section 6(2) of Schedule 5; and</p> <p>(iii) sections 10, 11(4)(b)(i) and 12(4) of Schedule 5.</p>	Section 2

<p><i>Ash interment capacity</i> (骨灰安放容量), in relation to a columbarium in respect of which a licence is applied for or is issued, means the following particulars—</p> <p>(a) the maximum number of containers of ashes that may be interred in each niche in the columbarium, and the total maximum number of sets of ashes that may be interred in the niches;</p> <p>(b) the total maximum number of sets of ashes that may be interred otherwise than in niches in any area in the columbarium; and</p> <p>(c) the total maximum number of sets of ashes that may be interred in the columbarium.</p>	Section 12
<p><i>Ash interment layout</i> (骨灰安放布局), in relation to a columbarium, means the following particulars—</p> <p>(a) the location and serial numbering of niches in the columbarium;</p> <p>(b) any area in the columbarium in which ashes may be interred otherwise than in niches; and</p> <p>(c) if an exemption is applied for or is issued in respect of the columbarium that is a columbarium of a Chinese temple as referred to in section 57—the location of the religious ash pagoda (as defined by section 57(14)).</p>	Section 12
<p><i>Ash interment quantity</i> (骨灰安放數量), in relation to a columbarium, means the following particulars—</p> <p>(a) the number of containers of ashes interred in each niche in the columbarium and the total number of sets of ashes interred in the niches;</p> <p>(b) the number of sets of ashes that are interred otherwise than in niches in any area in the columbarium; and</p> <p>(c) the total number of sets of ashes that are interred in the columbarium.</p>	Section 12
<p><i>Authorized person</i> (認可人士) in section 98 has the meanings given by section 2(1) of the Buildings Ordinance (Cap. 123).</p>	Section 98
<p><i>Batch 1 particulars</i> (第1組詳情) in section 28 means any of the eligibility-related particulars referred to in section 27(1)(a), (b), (c)(i) or</p>	Section 28(1)(d)

(f) or the particulars of furnaces for burning offerings existing in the columbarium concerned as at the cut-off time.	
Batch 2 particulars (第 2 組詳情) in section 28 means the particulars of any other facilities (whether or not they are building or building works) existing in the columbarium concerned as at the cut-off time that the operator intended to claim to be relevant to the eligibility-related particulars referred to in section 27(1)(d) or (e).	Section 28(1)(e)
Building (建築物) (except in paragraph (b) of the definition of structures certifiable for a pre-cut off columbarium in section 4(1) of, and in section 4(2) of, Schedule 2) has the meaning given by section 2(1) of the Buildings Ordinance (Cap. 123).	Section 2
Building works (建築工程) has the meaning given by section 2(1) of the Buildings Ordinance (Cap. 123).	Section 2
Chinese temple (華人廟宇) in section 57 has the meaning given by section 2 of the Chinese Temples Ordinance (Cap. 153).	Section 57(14)
<p>Columbarium (骨灰安置所)—</p> <p>(a) means any premises that are used, or claimed, represented or held out to be used, for keeping ashes;</p> <p>(b) includes furnaces for burning offerings and any other essential ancillary facilities supporting the premises to be so used; and</p> <p>(c) in relation to an application for a licence, includes—</p> <p>(i) any premises that are indicated in the application as being intended to be used for keeping ashes; and</p> <p>(ii) furnaces for burning offerings and any other essential ancillary facilities that are indicated in the application as being intended to support the premises to be so used; but</p> <p>(d) excludes premises used or to be used for scattering ashes with the permission of the Director under section 118(1) of the Public Health and Municipal Services Ordinance (Cap. 132).</p>	Section 2

<i>Columbarium premises</i> (骨灰安置所處所) means the premises comprising a columbarium.	Section 2
<i>Certifiable building</i> (可核證建築物)—has the definition given by section 3 of Schedule 2; please refer to <u>Chapter 4</u> .	Section 3 of Schedule 2
<i>Cut-off time</i> (截算時間) means 8 a.m. on 18 June 2014.	Section 2
<i>Deed of mutual covenant</i> (公契) has the meaning given by section 2 of the Building Management Ordinance (Cap. 344).	Section 2
<i>Eligibility-related provision</i> (資格相關條文) in section 28 has the meaning given by section 27(4).	Section 28(1)(b)
<i>Enactment date</i> (刊憲日期) means the day on which the PCO is published in the Gazette.	Section 2
<i>Endorsed register</i> (經批註登記冊), in relation to a pre-cut-off columbarium, means— (a) a register required under section 24 that is endorsed and attached to the approved plans of the columbarium, as referred to in section 26(3)(b); or (b) if such a register is varied under section 42 or updated under section 56(2)(a), the register as varied or updated.	Section 2
<i>Exemption</i> (豁免書) means an exemption issued or renewed under section 13.	Section 2
<i>Grace period</i> (寬限期) means the period beginning on the enactment date and ending— (a) on the expiry of 9 months beginning on the enactment date; or	Schedule 7

<p>(b) if an application is made for a temporary suspension of liability by the expiry of those 9 months—at the time when the application is finally disposed of or withdrawn.</p>	
<p>Ground storey (地面樓層) means— For the purposes of section 4 of Schedule 2—</p> <p>(a) the storey in which an entrance from a street to the building is situated; or</p> <p>(b) if—</p> <p>(i) a building fronts or abuts on more than one street; and</p> <p>(ii) due to a difference in street levels there are 2 or more entrances serving different streets and situated in different storeys, each of those storeys.</p>	<p>Section 4(4) of Schedule 2</p>
<p>Height (高度), for the purposes of the construction of section 5 of Schedule 2, means the perpendicular height of the building measured from the level of its lowest point at ground level to the level of the highest point of its roof. In determining the highest point of a roof, no account is to be taken of—</p> <p>(a) 1 stairhood if it has a roof area of not more than 7.44 m², a height of not more than 2.14 m and is erected and used solely to provide protection from rain and sun for a stairway used to gain access to the roof of the building;</p> <p>(b) any parapet on the roof if the height is not more than 1.22 m; or</p> <p>(c) 1 water storage tank if it has a roof area of not more than 2 m², a height of not more than 1.22 m and is installed at any point on the roof other than on a stairhood.</p>	<p>Section 6(1), (2) & (3) of Schedule 2</p>
<p>Inter (安放), in relation to ashes of a person—</p> <p>(a) means keep the ashes in, on or at any premises in any manner—</p> <p>(i) whether or not the ashes are kept in a container; and</p> <p>(ii) whether or not the ashes or container of ashes are or is kept in a niche; but</p> <p>(b) excludes scatter ashes in, on or at any premises with the permission of the Director under section 118(1) of the Public Health and Municipal Services Ordinance (Cap. 132).</p>	<p>Section 2</p>

<p>Interment right (安放權), in relation to a columbarium, means the right to inter ashes in the columbarium—</p> <p>(a) whether or not in a specific niche or area; and</p> <p>(b) whether or not for a definite period.</p>	Section 2
<p>Instrument holder (文書持有人), for the purposes of Part 1 of Schedule 5, means a person to whom a specified instrument has been issued, whether the instrument is still in force, has expired without being renewed or extended or is revoked or suspended.</p>	Section 1 of Schedule 5
<p>Lease (租契)—</p> <p>(a) means a Government lease; and</p> <p>(b) includes any undivided share in a Government lease.</p>	Section 2
<p>Licence (牌照) (except in section 4(2) and in section 4(2)(a) of Schedule 2) means a licence issued or renewed under section 13.</p>	Section 2
<p>Licensing Board (發牌委員會) means the board established under section 8.</p>	Section 2
<p>NT small building (新界小型建築物), for the purposes of section 3 of Schedule 2, means a building in the New Territories that is a small building within the meaning of section 5 of Schedule 2.</p>	Section 3(4) of Schedule 2
<p>Niche (龕位) means a compartment, cubicle or vault that is used, or claimed, represented or held out to be used, for keeping ashes of one or more persons usually with the ashes of each person in a container.</p>	Section 2
<p>Non-compliant structures (違規構築物) in section 4 of Schedule 2 means any building or building works that do not meet any of the requirements referred to in section 3(1) of Schedule 2.</p>	Section 4(1) of Schedule 2

<p>Notifiable particulars (須通報詳情) in section 28 means batch 1 particulars or batch 2 particulars.</p>	<p>Section 28(1)(c)</p>
<p>Notification scheme (通報計劃) in section 28 is the administrative scheme that was announced by the Secretary at the cut-off time—</p> <p>(i) for the Director or a public officer authorized to act for the purposes of the scheme (either is called a scheme officer) to ascertain the notifiable particulars in the manner described in subsections (2), (3) and (4); and</p> <p>(ii) for facilitating, in the manner described in subsections (5), (6) and (7), the determination of whether any notifiable particulars are proved for the purposes of an application for a specified instrument in respect of a pre-cut-off columbarium.</p>	<p>Section 28(1)(f)</p>
<p>Operator (營辦人), in section 28, in relation to a columbarium, means a person who operated, kept, managed or in any other way had control of the columbarium.</p>	<p>Section 28(1)(a)</p>
<p>Owner (擁有人), in relation to any premises—</p> <p>(a) means—</p> <p>(i) a person holding the premises directly from the Government, whether under a lease, short term tenancy or otherwise;</p> <p>(ii) a mortgagee in possession; or</p> <p>(iii) a person who receives the rent of the premises, solely or with another, on the person’s own behalf or that of another person, or who would receive the rent if the premises were let to a tenant; and</p> <p>(b) if a person referred to in paragraph (a) cannot be found or ascertained or is absent from Hong Kong or is under a disability— also means the agent of the person; but</p> <p>(c) excludes the Government.</p>	<p>Section 2</p>
<p>Pre-cut-off columbarium (截算前骨灰安置所) means a columbarium that was in operation, and in which ashes were interred in niches, immediately before the cut-off time.</p>	<p>Section 2</p>

<p>Pre-1961 NT building (1961 年前新界建築物), for the purposes of section 3 of Schedule 2, means a building in the New Territories built before 1 January 1961 where there has been no alteration or addition to, or reconstruction of, the building in contravention of the Buildings Ordinance (Cap. 123) on or after that date.</p>	<p>Section 3(4) of Schedule 2</p>
<p>Premises (處所) includes a place and, in particular, includes—</p> <ul style="list-style-type: none"> (a) any land or building; (b) a vehicle, vessel, aircraft, hovercraft or other conveyance, if stationary; (c) a structure (whether or not movable or offshore); and (d) a part of any of the premises described in paragraph (a), (b) or (c). 	<p>Section 2</p>
<p>Qualified professional (合資格專業人士), in relation to any provision of the PCO, means the person or persons specified under section 98 of the PCO in relation to that provision.</p>	<p>Section 2</p>
<p>Registered structural engineer (註冊結構工程師) in section 98 has the meanings given by section 2(1) of the Buildings Ordinance (Cap. 123).</p>	<p>Section 98</p>
<p>Repealed Buildings Ordinance (Application to the New Territories) Ordinance (已廢除的《建築物條例 (新界適用) 條例》), for the purposes of section 3 of Schedule 2, means the Buildings Ordinance (Application to the New Territories) Ordinance that came into operation on 1 January 1961 and was repealed and replaced by the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121).</p>	<p>Section 3(4) of Schedule 2</p>
<p>Roofed-over area (有蓋面積), for the purposes of the construction of section 5 of Schedule 2, means the area of a building enclosed within the exterior faces of the external walls (which includes any party wall) of that building together with the area of any balcony, stairway, verandah, porch, canopy or any other projection from the building. For the purpose of calculating the roofed-over area of any building, the area of not more than 2 balconies and 1 canopy is to be excluded if—</p> <ul style="list-style-type: none"> (a) they all project from the same side of the building for a distance of not more than 1.22 m; and (b) they are not enclosed. 	<p>Section 6(4) of Schedule 2</p>

<p>Sell (出售) —</p> <p>(1) For the purposes of the PCO, in relation to an interment right, includes—</p> <ul style="list-style-type: none"> (a) offer the interment right for sale; and (b) make an agreement for the sale of the interment right to another person. <p>(2) For the purposes of the PCO, a sale of an interment right in respect of a columbarium includes a disposition of the interment right to a person if the person, directly or indirectly, in connection with the disposition makes payments (whether or not any of the payments are described as donations) in one or more of the following manners—</p> <ul style="list-style-type: none"> (a) pays a sum periodically during the period for which the interment right lasts; (b) pays a fixed sum, by instalment or otherwise; (c) makes payments in any other manner. <p>(3) For the purposes of the PCO—</p> <ul style="list-style-type: none"> (a) a sale of an interment right in respect of a columbarium includes— <ul style="list-style-type: none"> (i) such a sale, even before the columbarium is constructed; (ii) such a sale, even if no dedicated person is named; and (iii) such a sale to a person for resale; and (b) a sale of an interment right in respect of a niche in a columbarium includes a sale of an interment right in respect of— <ul style="list-style-type: none"> (i) a particular niche, or a niche to be allocated, in the columbarium; or (ii) a niche in existence, or a niche to be constructed, in the columbarium. 	<p>Section 3</p>
<p>Small building (小型建築物), for the purposes of sections 3 and 4 of Schedule 2—</p> <p>Small building means a building meets the descriptions below:</p> <p>The building is of not more than 3 storeys and is—</p>	<p>Section 5 of Schedule 2</p>

<p>(a) of a height of more than 7.62 m but not more than 8.23 m and with a roofed-over area not exceeding 65.03 m² and in respect of which each load-bearing wall is of a thickness as follows—</p> <p>(i) in the case of a load-bearing reinforced concrete wall, not less than 175 mm;</p> <p>(ii) in the case of a load-bearing brick wall of the lowest storey, not less than 340 mm;</p> <p>(iii) in the case of a load-bearing brick wall of any higher storey, not less than 225 mm; or</p> <p>(b) of a height of not more than 7.62 m with a roofed over area not exceeding 65.03 m².</p>	
<p>Specified instrument (指明文書) means—</p> <p>(a) a licence;</p> <p>(b) an exemption; or</p> <p>(c) a temporary suspension of liability.</p>	Section 2
<p>Structures certifiable for a pre-cut off columbarium (可就截算前骨灰安置所核證的構築物) means non-compliant structures existing immediately before the cut-off time that—</p> <p>(a) fall within the following description—</p> <p>(i) they contain niches used or intended to be used for the interment of ashes where at least a niche in the structures was so used immediately before the cut-off time;</p> <p>(ii) they are otherwise used for the interment of ashes and were so used immediately before the cut-off time; or</p> <p>(iii) they form the whole, or a part, of any essential ancillary facilities supporting the operation of the columbarium; and</p> <p>(b) fall within the following description—</p> <p>(i) they are on-grade outdoor structures with niches;</p> <p>(ii) they form the whole, or a part, of a single- storey building;</p> <p>(iii) they form the whole, or a part, of the ground storey of a multi-storey building but do not form the whole, or any part, of any other storey of the building; or</p> <p>(iv) they form the whole, or a part, of a multi-storey building that is an NT small building (as defined by section 3(4) of Schedule 2)—</p>	Section 4 (1) & (2) of Schedule 2

<p>(A) that came into existence on or after 16 October 1987; and</p> <p>(B) in respect of which a certificate of exemption has not been issued under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121).</p> <p>The definition of structures certifiable for a pre-cut-off columbarium mentioned in paragraph (b) above, a reference to a building –</p> <p>(a) is a reference to any building (having the meaning given by section 2(1) of the Buildings Ordinance (Cap. 123)), including such a building situated on land that was unleased land at the time the building was erected –</p> <p>(i) without a licence issued under section 5 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28); or</p> <p>(ii) in breach of such a licence; but</p> <p>(b) does not include a reference to a building situated in or on another building that complies with the requirements for approval and consent to the commencement of building works under section 14 of the Buildings Ordinance (Cap. 123).</p>	
<p>Synthetic material (人造物料), in section 5, in relation to any ashes, means the synthetic diamond, jewellery, ornament or other material transformed from the ashes or part of the ashes.</p>	<p>Section 5(2)</p>
<p>Temporary suspension of liability (暫免法律責任書) means a temporary suspension of liability issued or extended under section 13.</p>	<p>Section 2</p>
<p>Tenancy (租賃) (except in section 2(b)(ii)(B) of Schedule 4) means—</p> <p>(a) a short term tenancy granted by the Government; or</p> <p>(b) an agreement entered into between private parties for the letting or leasing of any premises.</p>	<p>Section 2</p>
<p>Transformation work (轉化工序), in section 5, in relation to any ashes—</p> <p>(a) means the manufacturing process by which the ashes, or part of the ashes, are transformed into synthetic material; and</p> <p>(b) includes any activity that is ancillary to any such manufacturing process (such as the delivery and collection of the ashes or the synthetic material).</p>	<p>Section 5(2)</p>

<p><i>Unauthorized development</i> (違例發展) has the meaning given by section 1A of the Town Planning Ordinance (Cap. 131).</p>	<p>Section 2</p>
<p><i>Unleased land</i> (未批租土地) has the meaning given by section 2 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28).</p>	<p>Section 2</p>